

RECEIVED



2013 JUN 12 PM 4:20

OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMMISSION

June 12, 2013

VIA EMAIL ([secretary@fmc.gov](mailto:secretary@fmc.gov)),  
([judges@fmc.gov](mailto:judges@fmc.gov))

**Marc J. Fink**  
Direct Phone 202-463-2503  
Direct Fax 202-618-4868  
[mfink@cozen.com](mailto:mfink@cozen.com)

Karen V. Gregory, Secretary  
Office of the Secretary  
Federal Maritime Commission  
Room 1046  
800 North Capitol Street, N.W.  
Washington, D.C. 20573-0001

Re: Mitsui O.S.K. Lines, Ltd. v. Global Link Logistics, et al.  
Federal Maritime Commission; Docket No. 09-01  
Our file: 275609

Dear Ms. Gregory:

We are attorneys representing Complainant Mitsui O.S.K. Lines, Ltd. ("MOL") in the above captioned matter currently pending in the Federal Maritime Commission.

Please find enclosed an original and five (5) copies of Complainant's Opposition to Olympus Respondents' Statement Confirming the Record of this Proceeding.

A PDF copy of each pleading has been emailed to both [secretary@fmc.gov](mailto:secretary@fmc.gov) and [judges@fmc.gov](mailto:judges@fmc.gov).

Kindly arrange to stamp a conformed copy for our files. Our messenger has been instructed to wait.

If you have any questions, please do not hesitate to contact us.

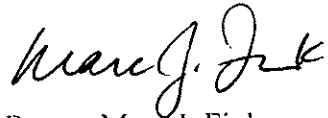
We thank the Commission for its attention and courtesies, and remain,

Karen V. Gregory  
June 12, 2013  
Page 2

---

Sincerely,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to read "Marc J. Fink", with a stylized flourish at the end.

By: Marc J. Fink

MJF/jmb  
Enclosures

Karen V. Gregory

June 12, 2013

Page 3

---

cc:

VIA EMAIL ONLY (w/ encls.)

David Street ([dstreet@gkglaw.com](mailto:dstreet@gkglaw.com))

Brendan Collins ([bcollins@gkglaw.com](mailto:bcollins@gkglaw.com))

GKG Law, PC

1054 31st St., Ste. 200

Washington, D.C. 20007

Ronald N. Cobert ([rcobert@gjcobert.com](mailto:rcobert@gjcobert.com))

Andrew M. Danas ([adanas@gjcobert.com](mailto:adanas@gjcobert.com))

Grove, Jaskiewicz and Cobert LLP

1101 17th Street, N.W., Suite 609

Washington, D.C. 20036

Benjamin I. Fink ([bfink@bfvlaw.com](mailto:bfink@bfvlaw.com))

Neal F. Weinrich ([nweinrich@bfvlaw.com](mailto:nweinrich@bfvlaw.com))

Berman Fink Van Horn P.C.

3423 Piedmont Rd., NE, Suite 200

Atlanta, Georgia 30305

Warren L. Dean ([wdean@thompsoncoburn.com](mailto:wdean@thompsoncoburn.com))

Harvey Levin ([hlevin@thompsoncoburn.com](mailto:hlevin@thompsoncoburn.com))

C. Jonathan Benner ([jbenner@thompsoncoburn.com](mailto:jbenner@thompsoncoburn.com))

Kathleen E. Kraft ([kkraft@thompsoncoburn.com](mailto:kkraft@thompsoncoburn.com))

Thomson Coburn LLP

1909 K St., N.W., Ste. 600

Washington, D.C. 20006

Andrew G. Gordon ([agordon@paulweiss.com](mailto:agordon@paulweiss.com))

Paul Weiss Rifkind Wharton & Garrison LLP

1285 Avenue of the Americas

New York, NY 10019-6064



ORIGINAL  
RECEIVED

CCLOS  
OCC  
RUSO  
RUB

2013 JUN 12 PM 4:21

OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

BEFORE THE  
FEDERAL MARITIME COMMISSION

---

Docket No. 09 -01

---

MITSUI O.S.K. LINES LTD.

COMPLAINANT

v.

GLOBAL LINK LOGISTICS, INC., OLYMPUS PARTNERS, OLYMPUS GROWTH  
FUND III, L.P., OLYMPUS EXECUTIVE FUND, L.P., LOUIS J. MISCHIANI, DAVID  
CARDENAS, KEITH HEFFERNAN, CJR WORLD ENTERPRISES, INC. AND CHAD J.  
ROSENBERG

RESPONDENTS

---

COMPLAINANT'S OPPOSITION TO OLYMPUS RESPONDENTS' STATEMENT  
CONFIRMING THE RECORD OF THIS PROCEEDING

---

On June 5, 2013, Olympus Respondents filed their Statement Confirming the Record of this Proceeding. This "Statement" is in violation of the Rules and the Scheduling Order.

Essentially, Olympus Respondents once again argue that "split routing" is not a violation of the Shipping Act, thereby engaging in repetitious motion practice in direct contravention of the Rules. 46 C.F.R. Sec. 502.69(d) states: "A repetitious motion will not be entertained." See *Green Master Int'l. Freight Services Ltd. - Possible Violations of Section 10(A)(1) and 10(B)(1) of the Shipping Act of 1984*, 2003 WL 21368690, \*4 (F.M.C. 2003) and *Holt Cargo Systems, Inc. v. Delaware River Port Authority*, 28 S.R.R. 1268, 1272 (ALJ 1999) (both decisions refer to an earlier version of the rules, in particular Rule 73(e)). This Statement is merely duplicative of

prior arguments previously raised by Olympus Respondents and should be denied with prejudice on the basis of Rule 69(d) alone.

Prior to the filing of its so-called Statement, Olympus Respondents have moved for reconsideration on this and other issues at least three (3) times: first, on July 23, 2010, Olympus Respondents moved for reconsideration of the denial of their motion to dismiss; second, on April 19, 2012, Olympus Respondents joined Global Link's motion for reconsideration of the April 12, 2012 Order on Pending Motions;<sup>1</sup> and third, on September 20, 2012, Olympus Respondents moved for reconsideration of the September 5, 2012 Orders.<sup>2</sup> Olympus Respondents' repeated motions for reconsideration, and this further Statement, demonstrates their continual disregard for the Rules.

Olympus Respondents' so-called Statement is nothing more than repetitious motion practice in violation of both the Rules and the current Scheduling Order. *See* Order Granting Complainant's Motion for an Additional Extension of the Briefing Schedule dated March 22, 2013. Accordingly, MOL respectfully requests that Olympus Respondents' Statement be stricken.

MOL further requests that it be awarded fees and costs incurred in responding to yet another pleading, in a long line of repetitive filings, by Olympus Respondents.

---

<sup>1</sup> The ALJ issued his April 12, 2012, Memorandum and Order on Pending Motions which addressed various discovery issues, including Motion to Compel Discovery and Issuance of a Subpoena concerning MOL's relationship with Nintendo.

<sup>2</sup> On September 5, 2012, the ALJ denied Olympus Respondents' Motion for Summary Judgment and also denied their Motion to Proceed Under the Commission's August 1, 2011 Order.

WHEREFORE, Complainant Mitsui O.S.K. Lines, Ltd. respectfully requests that Olympus Respondents' Statement be stricken and it be awarded with fees and costs.

Respectfully submitted,



Marc J. Fink  
COZEN O'CONNOR  
1627 I Street, N.W., Suite 1100  
Washington, D.C. 20006  
(202) 912-4800 (tel)  
(202) 912-4830 (fax)

David Y. Loh  
COZEN O'CONNOR  
45 Broadway Atrium, Suite 1600  
New York, NY 10006-3792  
Tel: (212) 509-9400  
Fax: (212) 509-9492

*Attorneys for Mitsui O.S.K. Lines, Ltd.*

Dated: June 12, 2013

**CERTIFICATE OF SERVICE**

**I hereby certify that I have this day served the foregoing document upon the following individual(s) via electronic mail:**

David Street ([dstreet@gkglaw.com](mailto:dstreet@gkglaw.com))  
Brendan Collins ([bcollins@gkglaw.com](mailto:bcollins@gkglaw.com))  
GKG Law, PC  
1054 31st Street, Ste. 200  
Washington, D.C. 20007

*Attorneys for Respondents Global Link Logistics,  
Inc.*

Warren L. Dean ([wdean@thompsoncoburn.com](mailto:wdean@thompsoncoburn.com))  
C. Jonathan Benner  
([jbenner@thompsoncoburn.com](mailto:jbenner@thompsoncoburn.com))  
Harvey Levin ([hlevin@thompsoncoburn.com](mailto:hlevin@thompsoncoburn.com))  
Kathleen E. Kraft ([kkraft@thompsoncoburn.com](mailto:kkraft@thompsoncoburn.com))  
Thomson Coburn LLP  
1909 K Street, N.W., Ste. 600  
Washington, D.C. 20006

Andrew G. Gordon ([agordon@paulweiss.com](mailto:agordon@paulweiss.com))  
Paul Weiss Rifkind Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064

*Attorneys for Respondents Olympus Partners, L.P.;  
Olympus Growth Fund III, L.P.; Olympus  
Executive Fund, L.P., Louis J. Mischianti; David  
Cardenas and Keith Hefferan*

Ronald N. Cobert ([rcobert@gjcobert.com](mailto:rcobert@gjcobert.com))  
Andrew M. Danas ([adanas@gjcobert.com](mailto:adanas@gjcobert.com))  
Grove, Jaskiewicz and Cobert LLP  
1101 17th Street, N.W., Suite 609  
Washington, D.C. 20036

Benjamin I. Fink ([bfink@bfvlaw.com](mailto:bfink@bfvlaw.com))  
Neal F. Weinrich ([nweinrich@bfvlaw.com](mailto:nweinrich@bfvlaw.com))  
Berman Fink Van Horn P.C.  
3423 Piedmont Rd., NE, Suite 200  
Atlanta, Georgia 30305

*Attorneys for Respondents CJR World Enterprises,  
Inc. and Chad Rosenberg*



---

David Y. Loh  
Cozen O'Connor  
45 Broadway Atrium, Suite 1600  
New York, NY 10006-3792  
Tel: (212) 509-9400  
Fax: (212) 509-9492  
*Attorneys for Complainant Mitsui O.S.K. Lines Ltd.*